

circuit court nomination. Following that vote, we will return to the immigration reform legislation. And if we are unable to reach a short time agreement, then it will be necessary to table the pending amendment. Senators can therefore expect at least one additional vote prior to the policy meetings.

I remind everyone, once again, to not make plans to be far from the Chamber as we proceed on the immigration bill; that is, stay close to the Chamber. We will vote each day this week and into each evening.

#### ORDER FOR ADJOURNMENT

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order, following the remarks of Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Illinois.

#### IMMIGRATION REFORM

Mr. DURBIN. Mr. President, I am glad we are returning to the immigration bill, as Senator FRIST has alluded. I am concerned, as he is, there will be so many amendments offered we may not be able to bring it to a satisfactory conclusion soon.

We tried to get a limitation on amendments on the Democratic side and were unsuccessful and decided, finally, in desperation really, to go forward and to have amendments offered on the floor in the hopes that Members who offer them would accept reasonable limitations on their debate time.

It was unusual that when we debated health insurance for small businesses last week, the Republican majority used a procedure called "filling the tree," and then, of course, the cloture motion to cut off amendments, to limit amendments. When it comes to immigration, there has been no effort by the majority to do that. So we are going to face quite a few amendments, and I hope we can handle them in a reasonable and expeditious way.

This is an important bill. Comprehensive immigration reform is necessary in America. Our system is broken, badly broken. It does not protect America as it should, and it is not fair to people who have come to this country. We have to find a reasonable way to come up with comprehensive, tough but fair law when it comes to the issue of immigration.

#### MEDICARE PRESCRIPTION DRUG COVERAGE

Mr. DURBIN. Mr. President, there is another law that has an important milestone today and that is Medicare prescription Part D. I remember this bill when it was debated about 2½ years ago—2½ years ago on the floor of the Senate—and was passed and enacted by the President.

So the administration had 2 years to get ready, 2 years to be prepared for the millions of people under Medicare who would become eligible for a prescription drug benefit.

This is an important benefit, one that was not included in the original Medicare legislation. In those days, there were not that many prescription drugs, and they were not that good. Now we have quite a variety of very good drugs available to help the elderly and others stay healthy and strong and independent. So adding a prescription drug benefit to Medicare made sense.

Keeping people healthy and at home rather than sick and in the hospital or in the nursing home is not only morally right, it makes sense financially. So we passed a bill 2½ years ago. But it was not a very good one. It was extremely complicated.

Imagine, if you will, a bill written by the pharmaceutical industry and the insurance industry. And that is what we ended up with, a bill that allows those two industries to capitalize on opportunities for profit-taking, which they are going to do and already have done. Unfortunately, it is at the expense of senior citizens.

In my State of Illinois, seniors who are trying to figure out which might be the best approach for their prescription drugs have 45 different choices. Forty-five choices may sound like a holiday for some, akin to going to shop at a department store, but for many seniors it became overwhelming and confusing.

They tried to get help. They called the Medicare hotline. That was supposed to be the 1-800 number that would answer their questions. If you could get through—after waiting for a long period of time—surveys of people who tried to get through found that many times they were giving out bad information.

They also put out brochures. Medicare put out some written information for seniors, and people looked at it closely and said: Well, this is wrong. It is written poorly. It does not describe the law as it currently exists.

So what was a senior to do? Many of them turned to family friends. I have had friends of mine whose moms and dads had to make this call. They sat down with them, worked through the paperwork. They went online. They helped them make the choice. But that was not always the case. Some people don't have a family member who is available or one who can understand the complexities of this choice. So they went to other places.

They would go to their pharmacist. So many pharmacists—I want to salute them this evening—so many pharmacists gave up their time. Frankly, that is what they have to sell, their time and professional advice. And they gave it up for their customers to try to help them through this immensely complicated legislation.

Where are we today? Well, today, as the enrollment deadline is reached on May 15, 6 million Medicare recipients

have yet to sign up for prescription drug benefits. If you say: Well, being out of 40 million or so, then you have done pretty well. It ignores the fact that over 25 million already had coverage. They were already covered with prescription drug protection. So we were setting out to sign up some 15 or 16 million, and we did not get it done and fell short—fell short by about 40 percent or maybe more. The final figures will come in, in the next few days.

Of the 6 million who have not signed up as of today, 3.2 million are low-income elderly and disabled. They are eligible for extra help in paying for their medicine.

In my home State, approximately 478,000 eligible beneficiaries have yet to sign up. That is about one-third of the eligible people in my home State of Illinois.

Despite the best efforts of all the senior citizen groups, all of the traveling by the President, and all of the information that has been given, a third of the eligible people have not signed up for Medicare prescription Part D in my State.

That is an indication of the tough choice that many have to make. According to the latest numbers available from Social Security, only 21 percent of seniors in Illinois eligible for extra help have been enrolled. Millions of beneficiaries need more time. Many beneficiaries are simply overwhelmed by the unnecessary complexity and confusion of a program that could have been so simple and straightforward.

Even if they take appropriate steps, they don't always get good information, and many of these people will not sign up by the deadline. The Government Accountability Office completed a study last week that found that Medicare's written promotional materials used too much technical jargon, that the call waiting times lasted from a few minutes to close to an hour, and the Government Web site was so confusing that many people gave up before completing the process.

Someone wrote in the New York Times today that this is clearly a situation where a program was designed and written by people who don't view Government as a solution to a problem, they view Government as a problem. So they created a program that is entirely too complicated and confusing.

Investigators at GAO posed as seniors or individuals helping seniors and they placed 500 calls to 1-800-MEDICARE and found that about a third of them resulted in bad information being given to seniors. These mistakes just added to the confusion. So what happens? If somebody fails to sign up today, when they were supposed to, unfortunately, there are going to be some dire consequences. First, they will not be able to enroll in a prescription drug plan under Part D until November 15 for coverage that starts in January of 2007. So for the remainder of this year, they will not have the protection of a

prescription drug plan, even if they explained it to them and they could make their choice.

In addition, if they didn't sign up by today, under current law, as written and passed by this Senate and signed by the President, these seniors are going to face a significant penalty, an increase in monthly premiums of 1 percent for every month past the deadline. That means they will automatically be subject to a 7-percent minimum penalty tax for the rest of their lives. This is not a one-time penalty. They are stuck, branded. They came in too late, and they are supposed to pay the price.

I cannot tell you how many times we Democrats have come to the floor and said this is unfair. We need to extend the deadline and lift the penalty on those who otherwise would face the 7 percent indefinitely, for the rest of their lives, and we need to change this program.

Time after time, the Republican majority said: No, we are going to stick with this. It is tough, but that is the way it has to be.

It is my understanding that come tomorrow there will be an effort made—a bipartisan effort—to extend the deadline and lift the penalty. We are not sure. But delaying the penalty would be a good start. Without delaying the enrollment deadline, however, 6 million seniors will be left without coverage between now and November. Countless more will be left in limbo if they say there is no penalty if you didn't sign up by May 15, but you cannot sign up until November. Some people will be stuck with no opportunity to seek and to have the coverage they need for their prescription drugs.

In addition to the millions of seniors who have not yet signed up, there are many awaiting decisions from Medicare after filing complaints about various enrollment problems. They need more time.

Let me tell you about this afternoon. My office received a call from a couple in Illinois. They are enrolled in the Illinois Cares Rx program, a program for low-income seniors. This couple also had supplemental insurance through a former employer. Under the Illinois Cares Rx program, they could only enroll in one of two plans. They enrolled last December and until last week had been successfully filling prescriptions covered by the plan. Then, unknown to them, their former employer also signed them up for a plan. So the couple has been enrolled in two plans since January. Rather than giving the couple a choice of plans, Medicare now has automatically disenrolled them from the plan they had originally selected. They just learned this. The plan chosen by their former employer is not one of the two participating Illinois Cares Rx plans, which means the couple is now ineligible for the Medicare Part D Program and are paying nearly half of their monthly income for premiums and copays.

So this is an example of the complexity of this system. When you let all

of these different entities bombard seniors who are doing their best to understand what is best for them—in my office, my staff assistant, Christa Donahue, received a phone call last year from a woman who said she wasn't sure which plan to take. We asked her: Can you tell us what prescription drugs you are currently taking? She gave us a list of four or five drugs. We decided, for our own knowledge, to take those five drugs and go after the 45 different plans in Illinois and see what happened to them. I will tell you what happened. Day after day, and week after week, the protection that had been promised in each of those plans changed. On any given day, the plan could drop one of the drugs they originally said they would cover or it could increase or decrease the price of the drug.

So seniors who believed they had signed up for something they could count on could not be sure. They could not be certain their drug would be covered when they needed it to be covered. They could not be certain new drugs would be covered, and they could not be certain of the price.

It was written in a way that always gave the advantage to the drug company and the insurance company at the expense of the senior citizen. Now, this couple thought they had done the right thing and it turns out, because of this bureaucratic glitch, they have been denied coverage for their prescription drugs and won't have a chance to sign up until November for the next year. Meanwhile, nearly half of their monthly income is going into premiums and copays.

So this is a situation that could have been avoided with a simpler bill, one designed to help seniors, one they could understand. It wasn't written that way; it was written to protect profits.

Even more surprising about this couple is, when they called Medicare and requested that they be switched back to the original plan that saves them the most money, they were told the change was impossible to make because they had already used up their one opportunity to switch plans during their initial enrollment period. Talk about bureaucratic muckity-muck. These poor folks are going to be stuck because the law we wrote was so complicated and because the bureaucracy decided to penalize them. I hope they will get by—at great sacrifice—until we can clear up the problem and straighten up this law.

Unless Medicare resolves this couple's problems today—and we tried during the course of the day—they are going to be stuck in the wrong plan until November, forced to pay higher premiums and higher drug prices, through no fault of their own.

That is one story. Seniors need more time. We certainly should extend the enrollment deadline until the end of the year. We should suspend any penalty during that period of time, and we also should do something I think is

critically important: we ought to acknowledge the obvious. We should have allowed Medicare to offer an option under this plan—yes, one Medicare option that people could turn to as the standard option.

I am not saying private insurance companies could not compete with the Medicare option, but if Medicare was negotiating for the lowest drug prices for seniors, we know what would happen.

The Veterans' Administration negotiated to help seniors bring costs down and that brought the cost of drugs down. It made more drugs available for the veterans who served our country. The same could have happened for seniors under Medicare. The pharmaceutical companies and insurance companies knew that. They didn't want Medicare's bargaining power to bring it down to the lowest prices. So they stopped our efforts—repeated efforts—to allow Medicare to offer an option under Medicare prescription Part D.

It is time to change that. It is time to allow Medicare to negotiate for seniors, to bring down costs even at the expense of profit taking by the drug companies.

If this sounds vaguely familiar, it is what Canada does. They have done that to protect their seniors and others living in their country. They have said to the drug companies: You are entitled to a profit but not profiteering. You are entitled to make money for additional research but not at the expense of some of the most vulnerable people in Canada.

So they limited the amount of increase each year in the cost of the prescription drugs. That is why even today many people—even people in my family—are going to Canada to buy drugs. They are much cheaper there than in the United States. The difference between Canada and the United States is not a difference in culture, it is a difference in leadership—leadership where their Government stood up for seniors and, in this case, our Government stood up for pharmaceutical companies and insurance companies, so drugs would be more expensive than they should be and seniors will pay more and the benefit will not be as good as it should be.

We have problems with this bill, a doughnut hole. Wait until the middle of the year when it reaches 2,200. At that point coverage stops. People still will pay monthly premiums for their prescription drug plan, and in addition they are going to have to pay out of pocket almost \$3,000 before the coverage kicks in again. It is going to be a time of awakening and reckoning.

I think that many who supported the plan and voted for it—I did not—will have to explain to their seniors how this makes sense. May 15 will come and go. The efforts to extend the deadline, to lift the penalty and change the plan, despite being made many times on the floor of the Senate, have been rejected.

By tomorrow, I hope my colleagues on both sides of the aisle will put aside

their loyalty to this flawed plan and be more loyal to the seniors who count on us every day.

I yield the floor.

in adjournment until Tuesday, May 16, at 9:45 a.m.

Thereupon, the Senate, at 6:35 p.m., adjourned until Tuesday, May 16, 2006, at 9:45 a.m.

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

ADJOURNMENT UNTIL 9:45 A.M.  
TOMORROW

NOMINATIONS

*To be general*

GEN. MICHAEL V. HAYDEN

The PRESIDING OFFICER. Under the previous order, the Senate stands

Executive nomination received by the Senate May 15, 2006: